

3/4/10

316-517-6000

spoke w/ Carol Schwartz  
re our response

**INFORMATION REQUEST**  
**PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL:**  
**RETURN RECEIPT REQUESTED**

Jack J. Pelton  
President  
Cessna Aircraft Company  
1 Cessna Boulevard  
Wichita, Kansas 67211

RE: Request for Information Regarding the Standard Products Site,  
Wichita, Kansas

Dear Mr. Pelton:

This letter seeks your cooperation on behalf of Cessna Aircraft Company ("Cessna") in providing information and documents relating to the contamination at the Standard Products Site, located at 650 East Gilbert in Wichita, Kansas (the "Site"). We are sending this Request for Information because we have information from a tax court case, *McCulley Ashlock v. Commissioner of Internal Revenue*, 18 T.C. 405 (1952), copy enclosed, that you leased the Site. A copy of the case is enclosed with this Information Request. We encourage you to give this matter your immediate attention and that you provide a complete and truthful response to this Information Request and enclosed questions (Enclosure B) within thirty (30) days of your receipt of this letter.

The United States Environmental Protection Agency ("EPA") is investigating the release or threat of release of hazardous substances, pollutants, or contaminants at the Site. EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and disposal methods of such substances that have been or threaten to be released from the Site. EPA is attempting to determine what types of activities may have lead to contamination at the Site. EPA believes that Cessna might have information which may assist EPA in its investigation of the Site.

In August, September, and December 2007, the Kansas Department of Health and Environment ("KDHE") conducted sampling at the Site. Samples were analyzed for Radium-226. Elevated Radium-226 concentrations exceeding the standard established at 40 C.F.R. § 192.12 of a cleanup level are not to exceed background plus 5 pCi/g. Levels of Radium-226 as high as 81,800 pCi/g of Radium-226 were found at the Site.

CONCURRENCE				
SYMBOL	CNSL	SJPR	SJPR	
NAME	Robert Schademann	Bauchholz		
INITIALS/DATE	1/25/10	1/27/10		

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### Description of Legal Authority

The federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. commonly referred to as "CERCLA" and "Superfund") grants EPA the authority to, among other things: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by each Site, and (3) clean up those Sites in the order of the relative threats posed by each.

### Information Request

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility; and
- (B) The nature or extent of a release or threatened release of hazardous substance or pollutant or contaminant at or from a vessel or facility.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, EPA is authorized to seek penalties if you fail to respond in a timely manner or if you fail to respond adequately to the Information Request. In addition, false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under 18 U.S.C. § 1001.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you would like EPA to treat the information in a confidential manner, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

If you have information about other person(s) who may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the timeframe noted above.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Instructions on how to respond to the questions, stated in Enclosure B, are described in Enclosure A. Enclosure C is a certification that an authorized representative for Cessna must sign and return with your response. You should mail your response to:

Denise Roberts  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Office of Regional Counsel  
901 North 5th Street  
Kansas City, Kansas 66101.

If you have additional questions about the nature of the environmental conditions at the Site, or the status of cleanup activities, please contact the On-Scene Coordinator, Randy Schademann at 913-551-7331. If you have questions about the Information Request or legal matters relating to the Site, contact the staff attorney for the Site, Denise Roberts at 913-551-7559.

We appreciate your prompt response to this Information Request.

Sincerely,

Kenneth S. Buchholz  
Chief  
Emergency Response and Removal North Branch  
Superfund Division

Enclosures

## ENCLOSURE A

### **INFORMATION REQUEST INSTRUCTIONS AND DEFINITIONS**

#### Instructions

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to you will be considered non-compliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Information Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA. Should you find, at any time after submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;

## ENCLOSURE A

- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within thirty (30) days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions. If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Definitions

## ENCLOSURE A

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term “you” or “your” or “Respondent” shall mean Cessna Aircraft Company. The term “you” also includes any officers, managers, employees, contractors, trustees, successors, assigns, and agents of Cessna Aircraft Company.
2. The term “person” shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
3. The term “Site” shall mean the Standard Products Site at 650 East Gilbert Street, Wichita, Kansas.
4. The term “identify” means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position, or business.
5. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term “identify” means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
6. The term “identify” means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position, or business.
7. The term “documents” includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
8. The term “arrangement” means every separate contract or other agreement between two or more persons, whether written or oral.
9. The term “hazardous substance” shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
10. The term “pollutant or contaminant” shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations; and includes any mixtures of such pollutants and contaminants with any other substances, including petroleum products; and is that same definition as that contained in Section 101(33) of CERCLA.

## ENCLOSURE A

11. The term “hazardous waste” shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

a. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

b. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; and is the same definition as that contained in Section 1004(5) of RCRA.

12. The term “materials” shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to all goods, substances, hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined in these definitions.

13. The term “solid waste” means any trash, garbage, refuse, by-products, sludges, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, and is the same definition as that contained in Section 1004 (27) of RCRA.

14. The term “release” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.

## **ENCLOSURE B**

### **INFORMATION REQUEST** **QUESTIONS**

#### **FOR INSTRUCTIONS SEE ENCLOSURE A**

1. Identify the person(s) answering these questions on your behalf including such person's name, title, affiliation, business address and telephone number.
2. For each and every question and subpart, identify all persons consulted or persons who aided in the preparation of the answer.
3. For each and every question and subpart, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to that question or subpart. In addition, provide clear and readable copies of the above described documents.
4. Provide a copy of the lease by Cessna Aircraft Company (Cessna) for 650 East Gilbert in Wichita, Kansas (the Site) that is referred to in the enclosed case *McCulley Ashlock v. Commissioner of Internal Revenue*, 18 T.C. 405, 406 (1952).
5. Provide copies of the Articles of Incorporation for Cessna and any annual reports filed in the 1940's with any state Secretary of State office.
6. What business did you operate at the Site?
7. Over what period of years did Cessna operate at the Site?
8. Did your operation involve the use of stripping paint from aircraft dials or parts? If so, how were any used paints or solvents treated, stored and/or disposed?
9. Over what period of years did your operation involve the use of stripping paint from aircraft dials or parts?
10. Provide a description and any documents that show the volume of materials, hazardous wastes, hazardous substances, pollutants or contaminants that were generated, treated, stored, disposed, and or released at the Site.
11. Provide copies of any documents showing how the paints and solvents stripped from aircraft dials or parts were handled, treated, and disposed.
12. Provide copies of any inspections performed by the state of Kansas during the period that you operated.
13. Identify any persons whom you believe will be able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents and identify the additional information or documents they may have.



**ENCLOSURE B**

14. For each and every Question contained herein, if information or documents responsive to the information request are not in your possession, custody, or control, identify the persons from whom such information or documents may be obtained.

**ENCLOSURE C**

**STATEMENT OF CERTIFICATION**

**(To be submitted with your response to the Information Request)**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all enclosures and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Official Title

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JACK J. PELTON

Ser

PRESIDENT

Stn

or I

City

CESSNA AIR CRAFT COMPANY

1 CESSNA BLVD

WICHITA, KS 67211

PS

Instructions

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- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS<sup>®</sup> postmark on your Certified Mail receipt is required.
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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

JACK J. PELTON  
PRESIDENT  
CESSNA AIR CRAFT COMPANY  
1 CESSNA BLVD  
WICHITA, KS 67211

**2. Article Number**

(Transfer from service label)

7006 2760 0000 8648 3034

**COMPLETE THIS SECTION ON DELIVERY****A. Signature**

X

*Brenda Carpenter*

☐ Agent

☐ Addressee

**B. Received by (Printed Name)**

*Brenda Carpenter*

**C. Date of Delivery**

*2/1/10*

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Region VII

Office of Regional Councils

901 North 5th Street

Kansas City, KS 66101-2907

*Roberts*